

**§ 166.404**

**25 CFR Ch. I (4–1–10 Edition)**

(1) The permit is for the Indian landowner's immediate family or co-owner; or

(2) We determine it is in the best interest of the Indian landowners.

(c) We may approve a permit for grazing on tribal land at less than fair annual rental if the tribe sets the rate.

**§ 166.404 Whose grazing rental rate will be applicable for a permit on tribal land?**

The following grazing rental rate schedule will apply for tribal land:

If you are * * *	And if * * *	Then you will pay * * *
(a) Grazing livestock on tribal land .....	The tribe established the grazing rental rate.	The rate set by the tribe.
(b) Grazing livestock on tribal land .....	No tribal grazing rental rate has been established.	The rate set by the BIA.
(c) The successful bidder for use of any of these specific parcels of Indian land.		Your rental rate bid, but not less than the minimum bid rate advertised.

**§ 166.405 Whose grazing rental rate will be applicable for a permit on individually-owned Indian land?**

The following grazing rental rate schedule will apply for individually-owned Indian land:

If you are * * *	Then you will pay * * *
(a) Grazing livestock on Individually-owned Indian land.	The rate set by the BIA or by the individual Indian landowner and approved by us.
(b) The successful bidder for use of any of these specific parcels of Indian land.	Your rental rate bid, but not less than the minimum bid rate advertised, unless the permit is granted at less than fair annual rental under § 166.403.
(c) The recipient of an allocation from a bid unit.	The bid rate or the appraised rate, whichever is higher.

**§ 166.406 Whose grazing rental rate will be applicable for a permit on government land?**

The following grazing rental rate schedule will apply for government land:

If you are * * *	And if * * *	Then you will pay * * *
(a) Grazing livestock on government land	The tribe has control over the land or the tribe has authority to set the rate.	The rate set by the tribe.
(b) Grazing livestock on government land	Government controls all use of the land	The rate set by the BIA.

**§ 166.407 If a range unit consists of tribal and individually-owned Indian lands, what is the grazing rental rate?**

The grazing rental rate for tribal land will be the rate set by the tribe. The grazing rental rate for individually-owned Indian land will be the grazing rental rate set by us.

**§ 166.408 Is the grazing rental rate established by the BIA adjusted periodically?**

Yes. To ensure that Indian landowners are receiving the fair annual return, we may adjust the grazing rental rate established by the BIA, based upon an appropriate valuation method, taking into account the value of improve-

ments made under the permit, unless the permit provides otherwise, following the Uniform Standards of Professional Appraisal Practice.

(a) We will:

(1) Review the grazing rental rate prior to each anniversary date or when specified by the permit.

(2) Provide you with written notice of any adjustment of the grazing rental rate 60 days prior to each anniversary date.

(3) Allow the adjusted grazing rental rate to be less than the fair annual rental if we determine that such a rate is in the best interest of the Indian landowner.

(b) If adjusted, the grazing rental rate will become effective on the next anniversary date of the permit.

(c) These adjustments will be retro-active, if they are not made at the time specified in the permit.

(d) For permits granted by tribes, we will consult with the granting tribe to determine whether an adjustment of the grazing rental payment should be made. The permit must be modified to document the granting tribe's waiver of the adjustment. A tribe may grant a permit without providing for a rental adjustment, if the tribe establishes such a policy under § 166.100(a)(4) of this part and negotiates such a permit.

#### RENTAL PAYMENTS

##### **§ 166.409 How is my grazing rental payment determined?**

The grazing rental payment is the total of the grazing rental rate multiplied by the number of AUMs or acres covered by the permit.

##### **§ 166.410 When are grazing rental payments due?**

The initial grazing rental payment is due and payable as specified in the permit or 15 days after the BIA approves the permit, whichever is later. Subsequent payments are due as specified in the permit.

##### **§ 166.411 Will a permittee be notified when a grazing rental payment is due?**

Each permit states the schedule of rental payments agreed to by the parties. We will issue an invoice to the permittee 30 to 60 days prior to the rental payment due date.

##### **§ 166.412 What if the permittee does not receive an invoice that a grazing rental payment is due?**

If we fail to send an invoice or if we send an invoice and the permittee does not receive it, the permittee is still responsible for making timely payment of all amounts due under the permit.

##### **§ 166.413 To whom are grazing rental payments made?**

(a) A permit must specify whether grazing rental payments will be made directly to the Indian landowners or to us on behalf of the Indian landowners.

If the permit provides for payment to be made directly to the Indian landowners, the permit must also require that the permittee retain specific documentation evidencing proof of payment, such as canceled checks, cash receipt vouchers, or copies of money orders or cashier's checks, consistent with the provisions of §§ 166.1000 and 166.1001 of this part.

(b) Grazing rental payments made directly to the Indian landowners must be made to the parties specified in the permit, unless the permittee receives a notice of a change of ownership. Unless otherwise provided in the permit, grazing rental payments may not be made payable directly to anyone other than the Indian landowners.

(c) A permit which provides for grazing rental payments to be made directly to the Indian landowners must also provide for such payments to be suspended and rent thereafter paid to us, rather than directly than to the Indian landowners, if:

- (1) An Indian landowner dies;
- (2) An Indian landowner requests that payment be made to us;
- (3) An Indian landowner is found by us to be in need of assistance in managing his/her financial affairs; or
- (4) We determine, in our discretion and after consultation with the Indian landowner(s), that direct payment should be discontinued.

##### **§ 166.414 What forms of grazing rental payments are acceptable?**

(a) When grazing rental payments are made directly to the Indian landowners, the form of payment must be acceptable to the Indian landowners.

(b) Payments made to us may be delivered in person or by mail. We will not accept cash, foreign currency, or third-party checks. We will accept:

- (1) Personal or business checks drawn on the account of the permittee;
- (2) Money orders;
- (3) Cashier's checks;
- (4) Certified checks; or
- (5) Electronic funds transfer payments.